



## POLICE DEPARTMENT

February 3, 2011

MEMORANDUM FOR: Police Commissioner

Re: Lieutenant Jason Savino  
Tax Registry No. 920811  
Police Service Area No. 6  
Disciplinary Case No. 84640/08  
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The above-named member of the Department appeared before me on July 13, 2010 and September 22, 2010, charged with the following:

1. Said Lieutenant Jason Savino, while assigned to the 43 Precinct, while on-duty, on or about May 6, 2007, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department, in that said Lieutenant failed to properly supervise an arrest, in that said Lieutenant did fail to provide the arresting officer, Police Officer Santiago, with complete information regarding said Lieutenant's involvement with the perpetrator prior to Police Officer Santiago's arrival at the scene.

### P.G. 203-10, Page 1, Paragraph 5 – GENERAL REGULATIONS

2. Said Lieutenant Jason Savino, while assigned to the 43 Precinct, while on-duty, on or about May 6, 2007, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department, in that said Lieutenant created a dangerous situation, in that said Lieutenant did place a party he suspected of being intoxicated into the driver's seat of a running motor vehicle.

### P.G. 203-10, Page 1, Paragraph 5 – GENERAL REGULATIONS

3. Said Lieutenant Jason Savino, while assigned to the 43 Precinct, while on-duty, on or about and between July 31, 2007, and January 15, 2008, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department, in that said Lieutenant did fail to comply with notification(s) requested by the Bronx District Attorney's Office. (*As amended*)

### P.G. 203-10, Page 1, Paragraph 5 – GENERAL REGULATIONS

4. Said Lieutenant Jason Savino, while assigned to the 43 Precinct, while on-duty, on or about and between May 6, 2007 and January 18, 2008, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department, in that said

Lieutenant did fail to provide ADA Larry Mutz, of the Bronx County District Attorney's Office, with complete and accurate information regarding the actions said Lieutenant took during an arrest on May 6, 2007 (*As amended*)

P G 203-10, Page 1, Paragraph 5 – GENERAL REGULATIONS

5 Said Lieutenant Jason Savino, while assigned to the 43 Precinct, while on-duty, on or about and between February 27, 2007 and May 20, 2007, did fail and neglect to maintain activity logs (PD 112-145), as required

P G 212-08 Page 1, Paragraph 1 – ACTIVITY LOGS

The Department was represented by Lisa M. McFadden, Esq., Department Advocate's Office, and the Respondent was represented by Marvyn Komberg, Esq.

The Respondent, through his counsel, entered a plea of Not Guilty to the subject charges. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

The Respondent is found Guilty as charged.

SUMMARY OF EVIDENCE PRESENTED

The Department's Case

The Department called Lieutenant Steven Weisse, Assistant District Attorney Larry Mutz and Police Officer Oswaldo Santiago as witnesses.

Lieutenant Steven Weisse

Weisse has been a member of the Internal Affairs Bureau (IAB) Group 22 for approximately 5 years. In January of 2008, he was assigned a case involving Police Officer Oswaldo Santiago and the Respondent. The allegations against Santiago

consisted of committing perjury during testimony in court and the allegations against the Respondent were that he failed to appear for court appearances. He explained that “the allegations were Officer Santiago testified during a criminal trial that he took a defendant out of a vehicle for a DWI<sup>1</sup> arrest, and the allegation against [the Respondent] was that he was notified for court and failed to appear.” The Assistant District Attorney (ADA) in that case was Larry Mutz and the defendant was Job Angulo.

Weisse further testified that the role of each officer was that Santiago was the arresting officer and the Respondent was the supervisor on the scene. He believed that the trial began January 17, 2008, and the case was dismissed January 22, 2008.

Weisse further testified that, with regard to an officer being notified, “Generally, if an Assistant District Attorney needs you for court, they will notify the Department through a computer system that will go to the precinct roll call. The precinct roll call will put out a notification to the member.” Weisse went to the 43 Precinct roll call office and examined their court log and notification sheets. He described the court log as a bound book that the roll call office keeps and when a notification comes in from the court they write the information into the log book. He also stated that the notification sheet is also handwritten in the log by roll call personnel. Weisse identified Department Exhibit (DX) 1 as a 43-page document containing Court Appearance Control System notification sheets and notification records that he collected at the 43 Precinct.

[The Assistant Department Advocate stipulated that only four of the notifications that was sent to the Respondent or communicated to the Respondent were actually received by him or communicated to him. It was further stipulated that there were five notifications that were for the dates of July 31, 2007, September 28, 2007, December 5

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<sup>1</sup> Driving while intoxicated

2007, January 8, 2008, and January 15, 2008 The Court then noted that of the five notifications, four were actually signed by the Respondent This was agreed to by the Assistant Department Advocate It was further noted that the one that he did not sign was for July 31, 2007 in that he was told about that notification by a Lieutenant Nolan Weisse agreed that the dates in question were September 28, 2007, December 5, 2007, January 8, 2008 and January 15, 2008 ]

Weisse acknowledged the following a notification to the Respondent was made for October 30, 2007 (DX 1, page 9), for November 28, 2007 (DX 1, page 13), for December 13, 2007 (DX 1, page 20), for January 16, 2008 (DX 1, page 33), for January 18, 2008 (DX 1, page 36), and for January 22, 2008 (DX 1, page 39) The Assistant Department Advocate stated that these aforementioned notifications indicated the total of notifications sent to the Respondent, they did not indicate whether or not he received these notifications

Weisse testified that he interviewed the Respondent during his official Department interview (DX 6 and 6A are the audio cassette tape and transcript respectively, of the interview, dated January 29, 2008) and questioned him regarding the four dates that he signed his notifications to appear September 28, 2007, December 5, 2007, January 8, 2008 and January 15, 2008 The Respondent indicated to him that those were his signatures on the notification sheets indicating that he signed for the notifications Also, during his interview, the Respondent indicated to Weisse that he spoke to the ADA prior to the trial on two occasions, once over the phone and once in person Weisse indicated that the Respondent spoke to the ADA at some point in mid-January 2008 Weisse stated that the type of notifications that were submitted were "must appear," which meant that he physically must appear in court He further

explained that the term "phone alert" on a notification would mean something different than "must appear." The Respondent also told Weisse that he spoke to the ADA "on the date the case was dismissed." He also stated that the Respondent did not speak to any other ADAs regarding the trial in this case.

The Respondent also indicated to Weisse that he had an interaction with Angulo, prior to Santiago arriving at the scene. Weisse explained that the Respondent "took the defendant out of the defendant's vehicle, placed the defendant on the defendant's rear bumper, and then placed the defendant in the back of his marked police car." The Respondent also indicated to him that Angulo's car was running at the time and that Angulo appeared to be intoxicated. The Respondent also told him that he had contact with Angulo approximately 20 to 25 minutes before Santiago arrived at the scene.

Weisse stated that the paperwork related to the case included a complaint report (DX 3), an arrest report (DX 2) and a court affidavit (DX 4). Those documents indicated that the arresting officer was Santiago and the supervisor on the scene was the Respondent. Weisse added that there was not any mention of the Respondent in any of the description of the events in that case, nor did any of the affidavits indicate that the Respondent had any interaction with Angulo. Weisse also testified that in the Respondent's memo book<sup>2</sup> that the dates regarding the incident with Angulo were not listed in his memo book entries (DX 5). The defense counsel stipulated that the Respondent, from the dates between February 27, 2007 and May 20, 2007, failed to maintain an activity log.

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<sup>2</sup> Also referred to as activity log at trial.

Weisse acknowledged that, as a result of the events in the criminal trial, perjury allegations were lodged against Santiago. The District Attorney's (DA's) office, however, declined to prosecute and the Department unsubstantiated the allegations.

On cross-examination, Weisse acknowledged that it is common in the Department for a commanding officer to assign an arrest to another police officer. When an arrest is assigned to another officer, that officer will put down in the complaint that it was on "on information or belief" that the facts are what he is signing to, meaning on the information or belief by the officer who assigned the arrest. Weisse acknowledged that when the assigned arresting officer states "on information or belief," he is indicating that he made the arrest by the direction of somebody else. Weisse further acknowledged that, in this case, there is no indication from the criminal court complaint that Santiago made the arrest based on the direction of the Respondent. When Santiago gave information in the criminal complaint, he indicated that he observed everything that went on. Weisse also acknowledged that Santiago was never charged with giving false and misleading statements. Weisse further testified that the perjury allegation against Santiago was "for false statements in court as far as stating that he himself took the perpetrator out of the vehicle."

Weisse acknowledged that the Respondent is a platoon commander in charge of approximately 30 members of the Department. He stated that the DA's office made approximately 11 notifications in total for the Respondent's appearance. Weisse testified that on the notifications to appear in court there is also a caption that reads "below the caption must appear trial, it states property required bring memo book. If any problems contact ADA extension 2725 or WNU at extension 2089." Weisse further testified that while the Respondent signed the notification sheet acknowledging four of the

notifications, there is no record of the actual notification that he received "because the member did not turn it back in " He explained "there's notifications signed by him and there's no notification turned back in " Weisse further acknowledged that the note that states if there are any problems to call a certain number is directed to anybody who may have a problem with the notification including the officer who first receives it and also the Respondent in this case who is being notified to appear

Weisse testified that during his interview with the Respondent, the Respondent indicated to him that after he received the notifications he contacted somebody in the DA's office Weisse further stated that the Respondent told him that he spoke to Mutz, on one occasion by telephone and on one occasion in person. Weisse acknowledged that the Respondent told him that he told Mutz to contact him since he commands a platoon, if he really needs him and to give him a call on his cell phone He then he gave Mutz his cell phone number While Weisse stated that the Respondent spoke to Mutz, he could not say who made the initial contact He added that when he spoke to Mutz, Mutz indicated to him (Weisse) that the Respondent had called him (Mutz) Weisse stated that he never called the DA's notification unit to check whether the Respondent had contacted them He stated that he just interviewed Mutz

Weisse added that he did not know whether the actual notification that the Respondent received was a "must appear" notification While Weisse did not know whether the actual notification that the Respondent received had a telephone number on it, he also did not know if, in fact, the Respondent called the DA's office

Weisse further testified that Angulo, in the DWI case, was taken into custody and was brought to the 45 Precinct for DWI testing There, Angulo took a Breathalyzer test and documents the Intoxicated Driver Testing Unit (IDTU) [Respondent s Exhibit (RX)]

A] indicate that Santiago is the arresting officer. The results of the breathalyzer test showed Angulo had a breath alcohol content of .13. Other aspects of the report stated that his face was flushed, his clothes were "disarranged," he was talkative, he used profanity, his eyes were bloodshot and his speech was slurred. Weisse acknowledged that, based on the breathalyzer and the independent observations of Angulo, an arrest was made.

Weisse also acknowledged that Angulo only spoke Spanish and Spanish translations of his rights were played for him. Initially, Santiago was called to the scene by the Respondent so that he could translate from Spanish to English for him. Once Santiago arrived at the scene to translate, he made an independent observation of the situation and an arrest was made. What he observed was then contained in the criminal court complaint, according to Weisse. Weisse also stated that during his investigation he learned from one of the officers at the scene that Angulo's wife had been drinking and was yelling to the officers, in effect, "What are you doing to my husband" as they were placing him under arrest. Weisse also acknowledged that a crowd had gathered and that Angulo's children were present.

Weisse acknowledged that he was told by either Mutz or the head of the DA's rackets bureau, that the charges against Angulo were dismissed because of inconsistent statements by Santiago.

On re-direct examination, Weisse acknowledged that the computer-generated notification sheets that are now in evidence (DX 1) showed what the command received from the DA's office. He further acknowledged that it is customary for the captions on the computer printout notification sheets where it states "must appear" and if any problems call a certain number for that information to be transferred to the actual



notification sheet that the member receives Weisse explained "I would say a general practice, yes What's written on the computer sheet is written on the notification sheet

Weisse acknowledged, on re-cross examination, that the Respondent told him during the interview that he left a message for the ADA to contact him if he was needed Weisse qualified his statement by saying while the Respondent indicated to him that he left messages for the ADA, he did not say how many times

Assistant District Attorney Larry Mutz

Mutz testified that he is an ADA for the Bronx DA's office and has been employed there since September 2006 In January 2008, he was assigned to the Criminal Court Bureau, "essentially prosecuting misdemeanor cases, including but not limited to DWIs, assaults, various petty crimes, petit larcenies " He stated that while he was assigned to that unit he was assigned the prosecution of a DWI arrest of Angulo He stated that the case was transferred to him from another ADA by the name of Daniel Chung At the point that he received the case he noted that the case was already in "trial ready status "

Mutz described how a case comes into his office From the point of arrest, it comes into the DA's office where a complaint is drafted The case then goes to arraignments and after that it is assigned to an ADA He stated that "before the first time it is on in court, they should meet with the witnesses and do whatever investigation is necessary ' He stated that a plea offer had been made in this DWI case which he believed was a 'violation for driving while impaired with a \$300 dollar fine and what is called a drunk driver program "

Mutz testified that he did not recall exactly how he reviewed the case, but he typically would review the file and the documents that were within the file. Mutz stated that from a review of the file

What it appeared to be is that a police officer, Officer Santiago, had arrived at the location of the arrest and was told by the lieutenant to go check out a car that was parked on the side of the street

Once the officer checked out the car, according to the file and according to the officer, he walked over with a flashlight, shown the flashlight inside the car, saw a person asleep at the wheel this person being Job Angulo, tapped on the window with his flashlight, and the defendant, Job Angulo, woke with a start and sort of made a gasping sound like he was surprised. Said I will be leaving now, put the car in drive, and drove the car approximately a foot before the officer told him to stop

The officer and the paperwork indicate he noticed that the defendant smelled of alcohol, appeared to be intoxicated, had all the indicia of intoxication, and at that point was asked to get out of the car, placed under arrest by Officer Santiago

Mutz added that the initial review of the documents gave no indication that Respondent had a greater role than what he had just described with regard to Officer Santiago

Mutz further testified that in preparation for trial he again reviewed the documents and the videotape in the file and he also spoke to Santiago on numerous occasions. He stated that every time the case was adjourned for trial he brought Santiago back in and interviewed him for the next court dates that the case was adjourned to. He further stated that, when he brought Santiago in, he also made the same notifications for the Respondent, who, he stated, 'never came in for any of the notifications I sent out.' He added that he interviewed Santiago four or five times and was told essentially the same facts that he just previously testified to, but Santiago did not add or tell him anything

about the Respondent's role in the case. Mutz further stated that "it was in December, when the case on for trial that I spoke to the defense attorney. This was an attorney I wasn't very familiar with by the name of Kyle Waters, and he had indicated to me that it was his belief that the [Respondent] had a much greater role in the arrest." Mutz stated that he continued to notify the Respondent and actually confronted Santiago regarding whether or not the Respondent had any further role in the case. Each time he confronted Santiago he was told "that the [Respondent] had no greater role than waving him over to the car initially and that was it." He added that it was on December 8, 2008, when the defense counsel told him of his belief that the Respondent had a greater role in the case.

While Mutz did not recall whether he notified the witnesses for that case for testimony at trial or to further interview them, he explained, "My common practice is that I would typically, if I was pressed for time, only notify on the trial dates because that's all I had time to do. But if I had the time, I would bring officers or witnesses in between dates so I could interview them so I can be more prepared."

Mutz, after reviewing DX 1, the Court Appearance Control System document, stated that it appears the first time that a notification went out for the Respondent to appear was October 30, 2007. It was agreed by all parties that a total of eleven notifications was sent to the Respondent, but he only received four of those notifications as evidence by the fact that he signed only four of them. Mutz also testified that, after his December 2008 conversation with the defense attorney, he "called the command a couple of times -- I can't say how many -- and left some messages just asking him the [Respondent] to give me a call back, there were some questions I had for him regarding this case. He also stated that when he spoke to Santiago he encouraged him to reach out to the Respondent to ask him to give him a call and

I expressed my frustration that I haven't heard from the [Respondent] I wanted to investigate whatever it was that the defense was trying to get at about this case. At that point, defense only told me there was more to the [Respondent's] role, didn't tell me what the [Respondent's] role was, so I really was at a loss and I wanted to figure out what it was he was talking about.

Mutz testified that the case was sent out for trial on January 8, 2008, and that a trial part was reserved for January 15. He added that the trial actually started on January 15. He stated that the notifications that he sent to the Respondent were "must appear for trial notifications." He stated that there is also another type of notification, that being "alert" but stated that in his experience those notifications were "useless." He explained that an "alert" is when the command is told that the officer needs to be available but he does not necessarily have to be at the DA's office. Mutz stated that he does not usually use these kinds of notifications because he has never had an "alert" that actually worked -- where an officer appeared when he needed him.

Mutz further testified that the trial lasted about a week. After doing his opening statement, he called Santiago as a witness and further called the highway officer who did the breathalyzer test. The defense then called their witnesses and, according to his recollection, the defense witnesses testified on January 18. Mutz noted that he rested his case after his witness on January 15. Mutz was then asked when was the first time that he spoke with the Respondent and he stated,

It might have been on the 15<sup>th</sup>, it might have been on the 8<sup>th</sup> when I was told I had a court part, but I went to my second seat who was one of my supervisors, Renee Aponte, and I told him about the case, and I also told him about how I was concerned about this issue with the [Respondent]. I never completely resolved it, although Officer Santiago insisted the [Respondent] had no further role. And my supervisor actually chastised me for not having spoken to the [Respondent] and told me that I really needed to make

every effort to at least get him on the phone once before starting up the trial

I believe that was on the 15<sup>th</sup>, but could have been as early as the 8<sup>th</sup> I can't say for sure

Mutz stated that prior to January 8, he tried to speak with the Respondent but was unable to. He denied receiving any messages from the Respondent or getting any communication as to a telephone number where the Respondent could be reached. He stated that the first time that he was able to get any information about being able to contact the Respondent was after he had been sent out to trial. He stated that he did have a phone conversation with him before he actually got to trial and that was the first time that he spoke with him. He stated that it was most likely on January 15 that that conversation took place. Mutz described the conversation with the Respondent as

I told him, look, the defense attorney is saying you have much larger role in this arrest. I hadn't heard any of the testimony yet, and the defense attorney had not told me what the role was, so I wasn't able to tell [the Respondent] what I thought the role was at that point. Just that I needed to know if he had any role other than waving Officer Santiago over. I indicated to the [Respondent] what it was that Officer Santiago had been telling me about the circumstances of the arrest, and you know, it was a very short conversation, you know, the Lieutenant -- I wouldn't say he was impolite, but seemed a little bit terse, like short, like he didn't really want to be on the phone with me, and essentially said to me -- and actually these are very close to his exact words -- it happened the way that the officer is saying it happened.

At that point, Mutz took the Respondent's word for it and putting that together with what Santiago told him he stated that he felt a little more confident about going forward. He added, however, that he still did not know what the defense counsel was talking about.

Mutz added that the Respondent did not tell him that he had any interaction with Angulo prior to Santiago responding to the scene. Mutz further explained that the Respondent informed him that "he noticed the guy slumped over the wheel and he indicated to Officer Santiago to go check it out." Mutz stated that the Respondent did not discuss anything further with regard to taking Angulo out of his car and then putting him back in. Had he done that, Mutz would not have proceeded at trial at that point because it did not make any sense at that point because he would have had "to explain that to a jury why someone would take a drunk person out of car and then put him back in. You know, that would be bizarre."

When Mutz was asked if he would have expected the Respondent to provide any more information about his participation in the case, he replied

Yes. I mean, I asked him if he any additional role beyond waving Officer Santiago over. That was the crux of my question. And so if he had done something as notable as taking him out and putting him back in, especially because Officer Santiago said the keys were still in the car, so he put him back in with the keys still there, that would not only have been important for me to know, but kind of shocking because it would have been such a bizarre reaction to this event.

So of course I would expect him to provide me with that information. In fact, that's, you know, the reason this defense attorney was telling me that his role was greater. He was saying that something else happened. That's what the conversation was about.

Mutz was asked to explain what the defense witnesses testified to at the trial. According to Mutz, they stated that Angulo "was tired, had been drinking, and left -- this was a Cinco de Mayo party. It was a house party on a block, that he left the party early after he had a few drinks and went and sat in the car. They testified generally that they went to go out and check on him a few times, this is a few of the witnesses, and that he

was okay He was sleeping in the car ” He further stated that, according to the witnesses, at one point

they saw what they described as a regular patrol car drive up to the scene And they described [the Respondent] coming, getting out of the car and approaching the defendant’s vehicle, and removing the defendant from the vehicle, placing him into what they describe as a patrol vehicle that he was in There was one other officer present who, you know, it wasn’t Officer Santiago based on their description It was a different officer It appeared to be the [Respondent’s] driver

The defendant was placed into what was the [Respondent’s] vehicle that night, and according to the witnesses, that was for a period of 15 minutes to half an hour before an unmarked police van arrived at the location

During that 15 to 30 minutes, many of the family members described interacting with [the Respondent] They provided a description of his white shirt, seeing his name tag, a few of them said he was telling them to get away from the vehicles, that they were only going to make things worst for the defendant

Then the testimony essentially concluded with once the police vehicle showed up, Officer Santiago got out of the police vehicle and took the defendant out of the back of the [Respondent’s] vehicle, transferred him to the van, and then drove away ”

None of the witnesses indicated that the Respondent had placed Angulo back into Angulo’s vehicle before Santiago arrived at the scene

Mutz testified that, after hearing their testimony, he was very concerned about the ‘ alternate version of these events that had taken place ” His supervisor again told him that he needed to speak to the Respondent and clarify what his role was in this case Mutz stated that he was then able to speak to the Respondent that night and told him about the testimony of the defense witnesses He stated that during that conversation the Respondent was polite and listened to him and stated to Mutz

"Tell me a little bit more about what you know, this case is about. Go through it with me again." I did.

At that point, when I went through the witnesses' version, the [Respondent] sounded to me as though he had a recollection. He said, "Oh, I remember now," something to that effect. "I was the one that took him out of the car."

You know, and at that point, I am not exactly sure of this, but I believe the [Respondent] also stated that he doesn't really understand how the officer testified the way that he did and was kind of puzzled through it.

The officer he was referring to was Santiago and at that point he stated that the Respondent "suggested that he may have put the guy back into the car, which didn't make sense to me." When Mutz got off the phone, he went to his supervisor and told him what the Respondent had told him, in that he was suggesting that he put Angulo back in the car. Mutz stated that, at that point, they realized that they had real issues with the case and calls were made to IAB.

Mutz stated that after his conversation with the Respondent, he had serious doubts as to whether the case was not happening either the way the Respondent described it or the way Santiago described it. Based on this new information, Mutz stated, this "is what led us to dismiss the case at trial, which is actually very rare and unusual thing to do, have a case on trial and have it dismissed while a jury is sitting there." He further explained that IAB was called "when I brought up the part about the [Respondent] stating that he may have placed this drunk person back into the car with the keys in the ignition for who knows how long, everyone realized that that was something that was not a very credible piece of testimony."

Mutz testified that the next thing he did was to arrange for the Respondent to be brought in. He stated



I had a conversation with him about coming into court, and I believe he was telling me that he couldn't come because he had to go to the range, and I had one of my supervisors, she is like an administrative support staff who deals with notifications, I told her [the Respondent] is telling me he has something else to do, but I need to have him here. Can you please make sure that he is authorized to come in.

[The Respondent] was at my office the following Tuesday morning on [January] 22<sup>nd</sup> based on whatever arrangements she had made to have him come in.

When he met with the Respondent, Mutz claimed, the Respondent was upset with him about going over his head in getting him to appear, but once they got past that, Mutz stated

his tone was less angry and I was directing him to talk about what the events of the trial were because that was important because I was actually on trial that day, and we had to figure out if we were going to try to call him to resuscitate this case, which didn't seem likely at that point, or we were going to dismiss.

So we discussed the case and the [Respondent] reiterated what he had told me over telephone, which is that he had been at the scene, he had taken him out of the car, and he had placed him back into the car at some point, and that's my recollection of what he told me about the incident.

After meeting with the Respondent, Mutz went to his Bureau Chief. After telling her what the Respondent just had told him, the decision was made that the case would have to be dismissed at trial.

When they appeared before the judge, they explained to the judge that they had two versions of what had occurred, that they were mutually exclusive with each other and that they could not prove their case beyond a reasonable doubt. He added that there was also a concern about the truthfulness of the testimony that Santiago had provided during the trial.

On cross-examination, Mutz testified that it was not clear to him who actually made the arrest of Angulo, Santiago or the Respondent. He added that he actually believed it was the Respondent. He came to this conclusion because the Respondent told him that he was the one that took Angulo out of the car and detained him. He was also told the same thing by the family. He explained that once a person is detained and not free to leave, they are in custody and to him that is an arrest.

Mutz stated that the paperwork that was in the file indicated that Santiago was the arresting officer and that the complaint was also signed by Santiago. Mutz stated that, according to Santiago, the arrest was made on his own observation. Mutz stated that when he was first assigned the case, it was his belief that Santiago was the arresting officer. Mutz agreed that the facts also indicated that Santiago was the arresting officer. Mutz added that Santiago testified that he was the one who approached the car, that there was no one else near the car, that he was the one that actually saw Angulo put the car in drive. On the other hand, Mutz stated that the Respondent told him that "he took him out of the car and you know there was a suggestion about putting him back in. And also one other thing which the [Respondent] denied to me that the defendant actually never put the car in drive and moved it." Mutz stated that once he got the two stories, that being Santiago's version and the Respondent's version, then he could not go forward with the case in good faith.

Mutz then agreed with the Court that both versions are ostensibly true but when they were both put together, it was very difficult to support Mutz's case beyond a reasonable doubt.

Mutz testified that the Respondent did not tell him that he took Angulo out of the car because his kids were crying and wanted to save face in front of the family. Mutz stated, "He never mentioned crying children, never." With regard to Angulo's wife, Mutz explained, "He mentioned not screaming, but there was a dispute between he and the wife. I don't know what it entailed." Mutz further explained that once the Respondent confirmed to him that he took Angulo out of the car and placed him in his own, he did not ask any follow-up questions regarding details of what occurred, including whether anyone was screaming. With regards to notifying the Respondent, Mutz testified that he filled out a piece of paper and that someone else would do the notification and check on it. On the paper that he filled out there is a box that indicates "must appear" and he would check "must appear." He added if a case is on for trial and "I haven't prepped the witnesses yet, or I believe it's really going to trial, I would make sure that a 'must appear' notification was put through." He added that the Respondent was always listed as a witness in this case.

Mutz testified that on the notification "it says bring all paperwork related to case. Any problems call notification unit and it provides a number. I am assuming that is the number for the notification unit." Mutz testified that he did not know whether or not the Respondent notified the notification unit that he has a platoon to command and that if they actually needed him, to call him on his cell phone number which he left with them. Mutz testified, however, that

Actually, I do know that because I went to notification many times because I was frustrated that I wasn't getting a response from the [Respondent]. And if they [had] gotten his cell phone number, they certainly would have given it to me, so I can answer that question.

I never got his cell number

I believe I did call him on his cell. It's possible I called him on his cell. I know I spoke to him over the phone. I don't know how that was orchestrated.

I know the date I was sent out, my supervisors were, you know, getting more and more concerned that I needed to speak to the [Respondent] and I hadn't yet. And so I think I called -- I know that I called the command, I know that I had a supervisor calling the command and I also had asked Officer Santiago to reach out to anyone that he knew to see if there was a way to get in touch with the [Respondent], and I did have a phone conversation with him once I obtained some sort of information. He may have called me, I don't recall though."

Mutz believed that the two conversations he had with the Respondent were on his cell phone. While Mutz is not sure whether he spoke to the Respondent on his cell phone, he did know that he did have a conversation with the Respondent.

When Mutz was asked, of the four notifications that the Respondent received, Mutz had spoken with him on two occasions, Mutz replied, "that would be a misleading way to phrase it. If he got notified four times I don't know, but the bottom line is I spoke to him twice, once when I was sent out to trial, which was way too late to be talking to him for the first time." When asked if he knew whether he spoke with the Respondent a week before the trial started, Mutz replied, "That could be possible if it was on the 8<sup>th</sup>. I said before I was sent out on the 8<sup>th</sup>. I may have spoken to him anywhere between the 8<sup>th</sup> and the 15<sup>th</sup>." He further explained that he spoke to the Respondent "between getting the court room and starting the trial was my first conversation. That was my testimony earlier." He acknowledged to the Court that that was his first phone conversation.

with the Respondent, which was "between the date I was sent out and the date the trial actually started "

With regard to the notifications that Mutz sent out, he stated "I actually reviewed notifications. One was an alert, that I wouldn't have actually have requested an alert. I would have wanted a must appear. Whoever put it into the system put it in as an alert. I can't control what they do when they put these things in." Mutz said he did not remember which one was the "alert" but he saw one to his surprise. Mutz further testified that the notification for January 8 that was sent to the Respondent stated 'alert' rather than "must appear." Mutz added that on the same date that the "alert" notification was sent, he spoke with the Respondent that day or within the next week, indicating that he either spoke with him on January 8 or January 15. Mutz added that it was on January 22 to the best of his recollection that he moved to dismiss the charges against Angulo.

Mutz testified that on January 15, he sent out a "must appear" notification for the Respondent to appear on that date. Mutz reiterated that in the first telephone conversation he had with the Respondent, the Respondent told Mutz that the facts of the case 'happened exactly the way the officer [Santiago] said it happened. Then second conversation, he said, Oh I remember now. This is how it happened.'" and described what the Respondent stated later in his conversation with Mutz. That is, he told Mutz that he put Angulo back in Angulo's car. When Mutz was asked if the Respondent, in discussing the case with him, held anything back from him, Mutz stated, During all of that, I would say that he certainly did. That he took the man out of the car, that he was the one that initially responded, that he spoke to the whole family, that he got into arguments with all

of them. Those were the things he never mentioned to me during the first conversation.” When Mutz was asked if he questioned the Respondent about any of these events, he replied, “At that point, I had no way of knowing what his role was. I was asking him.” When he was further asked if he confronted the Respondent about him taking Angulo out of the car and having a fight with the family, Mutz replied, “Only when I confronted him with Officer Santiago’s testimony and the family’s testimony.” It was at that point that the Respondent then told him what happened.

On re-direct examination, Mutz testified that prior to January 8, 2008, he made three or four or five attempts to call the Respondent. As a result of those attempts to call the Respondent, he did not get a response back from him. He explained “and to be clear, they [the calls] were to the precinct, and I left a message with whoever I spoke to and asked them to please ask him to call me.” He added that he began calling the precinct in December 2007, when he had the conversation with the defense attorney.

Police Officer Oswaldo Santiago

Santiago has worked for the Department for approximately five years and has been in his current assignment for almost a year. On May 6, 2007, Santiago was assigned to the 43 Precinct working an overtime tour that started at 1930 hours on May 5, 2007 and continued into May 6, 2007. Santiago did not recall what his assignment was for the overtime tour but did remember he was assigned to a foot post. During the tour, his partner made an arrest, and subsequently, Santiago was assigned to routine patrol in a van driven by someone else.

Santiago did not recall who the patrol supervisor was that evening, but he remembered it was a sergeant. Santiago stated that the general tour supervisor was the Respondent.

During the evening, Santiago said, he came in contact the Respondent because an officer in the van received a phone call from the Respondent and he was "directed to go translate." The location he was directed to respond to was 21-23 Newbold Avenue. Santiago arrived at the location at a little bit after 1:00 a.m. on May 6.

The location Santiago was directed to respond to was an area he remembered driving around in the van earlier in the evening. Santiago said, "Driving around that location, I remember seeing a vehicle that was parked with the lights on. I believe, and someone was in there. I couldn't recall who it was." He did not do any further investigation of the vehicle at the time.

Santiago responded to the Respondent's location "within minutes." Once at the location, Santiago explained, "I saw [the Respondent], I also observed a vehicle that was on. A vehicle that was parked on. The engine running. It was parked." Santiago believed that when he arrived on the scene, the Respondent was standing on the sidewalk. Santiago went on to explain that there was a vehicle parked parallel to Angulo's vehicle, that the lieutenant had a police vehicle and that there were other officers at the scene at that time.

Santiago stated that he observed the Respondent a few feet from Angulo's vehicle. Santiago approached the Respondent, who directed him to find out what was wrong with the driver. The Respondent did not give him any other information or additional instructions at that time.

Santiago approached the vehicle in question and there was one person in the vehicle (later identified as Angulo) Santiago said "because of the position of the person inside the vehicle, he had his hands crossed over the steering wheel with his head down in a sleeping like position " Santiago testified that when he approached Angulo seated in the vehicle, he asked him if he needed any medical attention Angulo responded in Spanish that "he had a few drinks and that he was going home '

Santiago stated that Angulo's car was on and the key was in the ignition He recalled, "Engine was running, there were keys in the ignition I remember the instrument panel being lit "

Santiago noticed Angulo had a strong odor of alcohol emanating from his breath, along with bloodshot and watery eyes Santiago asked Angulo to step out of the vehicle out of safety concerns of him driving off Santiago said, "I remember he attempted to put the car in drive I don't know if he actually did, hut I remember the car moved forward I asked him to turn off the vehicle, step out of the car "

After Angulo was out of the car, Santiago explained "I remember I was told to place him under arrest for intoxication, and to bring him down to the 45 Precinct " Santiago said Angulo was not handcuffed when he first approached him when he was still in the vehicle Angulo was handcuffed after he was taken out of the vehicle

Santiago did not recall if, after he had removed Angulo from the vehicle and he believed Angulo to be intoxicated, he conferred with the Respondent at that time He believed it was the Respondent's decision to have Angulo arrested Upon questioning by the Court, Santiago did not recall who actually told him to make the arrest and he did not recall if there were any other supervisors at the scene at that time



Upon further questioning by the Court regarding whether he made the arrest based on his own observations, Santiago explained, "Based on my own observations, I believed he was intoxicated at the time. I don't recall if I conferred, [the Respondent] any further." He reiterated that he did not recall whether he conferred with the Respondent or not. While acknowledging that "once we make an arrest, we confer with a supervisor," Santiago also said it was not his decision to make the arrest and he did not remember who he spoke to about making the arrest.

After Angulo was placed under arrest, he was put in the vehicle and brought to the 45 Precinct for IDTU testing. Santiago stated that Angulo was tested and "blew a 130. I believe. Which is above the legal limit." After the testing, Santiago got the IDTU paperwork, then brought Angulo to the 43 Precinct station house for arrest processing. Santiago explained that the paperwork he completed included basic pedigree information on the IDTU paperwork, an online and an arrest report. Angulo was charged with driving while intoxicated. After the arrest processing was completed, Santiago was interviewed by an ADA about the case.

Santiago stated that the arrest report he prepared for Angulo (DX 2) listed the Respondent as the supervisor at the time of the arrest. He denied that the Respondent ever gave him any additional information with regard to his (the Respondent's) interaction with Angulo prior to Santiago's arrival at the scene of Angulo's arrest. Santiago stated that he never got that information prior to the case going to the criminal trial.

Santiago said the first time he learned that the Respondent had interacted with Angulo prior to his (Santiago's) arriving at the scene was when he was notified by his Patrolmen's Benevolent Association (PBA) lawyer during his own case, approximately

about a year ago. Even today, Santiago claims, he does not know the extent of the interaction that the Respondent had with Angulo.

Santiago denied that the Respondent ever told him that he had taken Angulo out of Angulo's vehicle, or that he had placed Angulo into the Respondent's police car, before Santiago got to the scene, or that the Respondent ever told him anything about other civilians at that location causing a problem for him.

In response to questioning by the Court, Santiago testified that when he was summonsed to the Respondent's location, the Respondent wanted him to check on what was wrong with the driver in the car. Santiago went on to explain that he basically conducted his own investigation and determined that Angulo was intoxicated based on his own observation from what he saw. Santiago said that he did not recall any civilians around the scene and that the Respondent never told him why he wanted him to check this particular vehicle.

Regarding whether he indicated in any of his paperwork that he completed as part of his arrest that the Respondent was at the scene prior to his (Santiago's) arrival there, Santiago stated, "On the arrest report, I listed him as the approving supervisor." He said he had not noted in his paperwork that the Respondent was at the scene.

Santiago said he met with an ADA regarding a trial of the case. On the day of the arrest, he met an ADA to write up the arrest. Based on the information he had, an affidavit was written up. Later in the process, when the case was approaching trial, he met with Mutz and he discussed the facts of the case with him. During the discussion of the case with Mutz, Santiago mentioned that the Respondent had actually called him to the scene. At that time, he was not aware if Mutz had also spoken to the Respondent. As a result of his meeting with Mutz, Santiago did not do anything regarding the Respondent.

Santiago did not recall if the Respondent ever advised him that he should include in his paperwork that he, the Respondent, was the party that actually called him (Santiago) to the scene. Also, Santiago acknowledged that allegations were brought against him pertaining to this case.

On cross-examination, Santiago agreed, with regard to whether he had put the Respondent's name in any of his arrest paperwork, he did put the Respondent's name in the arrest report. He also admitted that he had a conversation with the ADA who drew the complaint in the case and he told her about the Respondent and what he observed. Santiago said that she told him that since he made the independent observations himself of Angulo putting the car in motion and of Angulo sitting behind the wheel of the car with the motor running, he could be the arresting officer, not the assigned officer. Santiago said that "[s]he refused to do an informed by complaint."

Santiago admitted that he went ahead and told that ADA that he made an independent observation himself, that he observed Angulo in the vehicle and he told her that the Respondent was there. Asked if the ADA "told you that you could be the arresting officer, not the assigned officer, and you could swear to the complaint based on upon what you saw, what you heard, what you smelled, what you did, is that correct?" Santiago replied, "Her response was as long as I was there and I observed it, I could be the one going down on the report." Santiago said that he signed the complaint after he had that conversation with the ADA.

Santiago said that prior to being called to the location of Angulo's car by the Respondent, he had seen the vehicle while he was riding around in the van subsequent to his partner making an arrest. He said he saw a person, but did not see who the person was, or if it was male or female. The person in the car was sitting in the driver's seat.

The van that Santiago was in did not stop to check the vehicle. Afterwards, Santiago got a call from the Respondent to go to the location of the vehicle, and upon Santiago's arrival, the Respondent told Santiago to check out person (Angulo) behind the wheel of the car. Santiago recalled asking Angulo if he needed medical attention. The latter responded in Spanish, "I had a few drinks. I'm on my way home. I'm going home."

Santiago did not recall if anyone else was in the vehicle, which was located at 21-23 Newbold Avenue. Looking at the arrest report, Santiago acknowledged that Angulo's home address was 2685 University Avenue. Santiago said he told Angulo to turn off the engine and exit the vehicle. At that time, he (Angulo) attempted to reach for the steering column. Santiago did not recall if he actually put the car in drive, but he remembered the car moving forward a few inches. Upon looking at his sworn affidavit (DX 4), Santiago acknowledged that he had said, under oath, that Angulo put the car in gear and moved the car.

Santiago admitted that he was investigated for perjury based on the allegations in the complaint but was never brought up on any charges.

Santiago acknowledged that he told the ADA, based on his own observations, that Angulo's eyes were watery, his speech was slurred, he had alcohol on his breath, and he had stated he had been drinking and attempted to move the car in Santiago's presence. Santiago admitted that the observations he told the ADA were his, and not the Respondent's observations, and based on that, he could be the arresting officer and he signed the complaint in the case.

Santiago did not have a conversation with the ADA regarding why the case was dismissed and he was never told why the case was dismissed. Santiago went on to state that he testified in front of a trial and a jury in regards to his observations in the case. He

found out the case was dismissed through his PBA lawyer approximately two weeks after he testified in the case

On redirect examination, Santiago said he determined that Angulo was intoxicated "immediately." He agreed that he told the initial ADA who he spoke to about the case that the Respondent had called him to the scene. He explained that he gave the ADA additional information about the case, testifying, "Information I gave was I was called to the scene, [the Respondent] was the first one there, I was the second one arriving, and I asked if I can do informed by, if it was a problem since I wasn't the first one at the scene. I asked the Assistant District Attorney if I had to do an informed by once I read over the affidavit and I saw my name on it. Her response was as long as I was there and I observed the same thing, the defendant was still in the vehicle, there was no informed by."

When asked if he ever told the ADA that the Respondent had previously taken Angulo out of the car before Santiago got to the scene, Santiago responded, "I didn't know that."

On recross examination, Santiago acknowledged that Angulo moved the car in his presence

#### The Respondent's Case

The Respondent testified in his own behalf

#### The Respondent

The Respondent has been employed by the Department for approximately 13 years. After graduating from the Police Academy, the Respondent was assigned to

Transit District 12 in the Bronx. During his three-and-a-half year tenure at Transit District 12, the Respondent was assigned to perform patrol duties. After leaving Transit District 12, the Respondent was assigned to the 102 Precinct where he was also assigned to patrol. The Respondent was promoted to the rank of sergeant after being assigned to the 102 Precinct for approximately a year-and-a-half. The Respondent's first assignment as a sergeant was the 115 Precinct in Jackson Heights. During the Respondent's three-and-a-half year assignment at the 115 Precinct, the Respondent was assigned to address various conditions as dictated by the needs of the Department. The Respondent performed duties with the Burglary Apprehension Team, and traffic safety as well. The Respondent was promoted to the rank of lieutenant and was assigned to the 43 Precinct where he performed the duties of the third platoon commander for approximately two years. After approximately two years at the 43 Precinct, the Respondent was assigned to VIPER 1 as a result of this case.

During his tenure with the Department, the Respondent has been awarded five Excellent Police Duty medals which resulted from his handling of various stabbing and robbery incidents. The Respondent was also awarded six Meritorious Police Duty medals, of which two awards were issued for the Respondent's integrity as a result of bribery arrests. Recently, the Respondent received two Commendations for dedicated community service.

The Respondent has not received an annual evaluation score lower than a 4.5 in the last seven years. A score of 4.5 is actually above highly competent. The Respondent has also received commendations directly from the Police Commissioner. RX B is a picture that shows the Respondent receiving a Certificate of Recognition for VIPER-assisted arrests from the Police Commissioner on January 6, 2010. He explained that the

Police Commissioner had commended him for his dedication during his current assignment. As a result of the Respondent's work, several newsworthy apprehensions were affected. The apprehensions included four apprehensions for homicide.

The Homicide Investigations Unit of the Manhattan DA's office learned of the Respondent's extensive knowledge of the "Grant Family" and that the Respondent was making apprehensions for controlled substances. The Manhattan DA's office asked the Respondent if he could be successful if given the right resources, and the Respondent answered their question in the affirmative. Manhattan DA's office provided the Respondent with several undercover officers and vehicles. During his assignment at VIPER 1, the Respondent had cultivated intelligence, and used such intelligence to coordinate the recovery of controlled substances from individuals. The investigation was successful and resulted in the recovery of several hundred grams of controlled substance during a ten-month period.

Beginning on the night of May 5, 2007, and extending into the early morning of May 6, 2007, the Respondent was performing duties as the platoon commander and was asked to stay on overtime for a DWI initiative. Although the Respondent could not recall his exact tour, he did recall that the tour started at approximately 1500 hours. The Respondent acknowledged that his tour extended from May 5 into May 6. There came a point in time when the Respondent observed a car with Angulo therein. The Respondent explained that at approximately 0100 hours, in the vicinity of 21-23 Newbold Avenue, he observed a car positioned on a one-way street in a manner which would impede traffic. The Respondent clarified that the vehicle was parked with the motor running. After getting out of his car, the Respondent knocked on the window of the parked car. The Respondent indicated that this was the fifth day of May, and the Cinco de Mayo holiday.

was being celebrated at that time. The Respondent described the neighborhood as being busy at that time. The Respondent also recalled that there was an Oscar de la Hoya fight that night, and the night was getting increasingly busy. The Respondent was asked to stay because the neighborhood was 'hopping'. The Respondent approached the parked car and observed Angulo slumped over the wheel. It appeared that Angulo was sleeping. The Respondent did not recall whether or not other persons were in the car. As the Respondent knocked on the window of the car, various screaming family members appeared. The family members were screaming random things like, "What are you doing?" The family members appeared to be intoxicated.

The Respondent acknowledged that at this point he catered to the family to gain their compliance and to establish crowd control. The Respondent also admitted that he did not initially know what was wrong with Angulo seated in the parked car and stated that Angulo 'could have been doing a million different things'. The Respondent was present at the scene with his operator. The Respondent reiterated that he did not recall whether or not any of the family members were in the car at the time, and reiterated that the car was running at the time. The Respondent characterized the situation as getting "chaotic real fast". One of the family members that remained clear in the Respondent's mind was a person whom the Respondent believed to be Angulo's mother-in-law. The mother-in-law was extremely intoxicated to the point where her daughter had to physically restrain her and bring her into a nearby residence. The Respondent recalled two children who were present. The mother of the children was saying, "Look what they are doing to your daddy, this is wrong," and was making other statements to the same effect.



Although a crowd was starting to gather, the Respondent did not feel a sense of extreme urgency. The Respondent explained that he wanted to first and foremost gain crowd control. In an effort to gain crowd control, the Respondent talked to those he identified as the "ring leaders" such as the mother-in-law. At that point, several individuals were possibly coming in and out of a nearby residence. After realizing that he could not communicate with Angulo, the Respondent directed his operator to get somebody who could translate. The Respondent later discovered that his operator called [REDACTED] with Angulo were brief, the Respondent quickly realized that Angulo did not speak English. The Respondent also indicated that he was catering to the family more than anything else. The Respondent acknowledged that Angulo was not removed from the car up to that point.

Angulo was taken out of the car after the Respondent's operator called Santiago. Angulo was then placed into the back of the Respondent's police vehicle with the assistance of his operator, Police Officer Golden. The Respondent noted that Angulo was neither handcuffed nor under arrest at that time. At that time, the Respondent had not made a determination as to whether or not Angulo was driving while intoxicated. The Respondent was still concentrated on crowd control at that time. The Respondent admitted to being guilty of having a big heart. The two children that were present were described as probably being between the ages of six and nine. The mother of the children kept saying to the two children, "Look what they are doing to your father."

The Respondent admitted that he still was not sure as to what he had at that point so he told Angulo to get back into the vehicle to save face. The Respondent acknowledged that he put Angulo back into the vehicle, but the Respondent could not recall whether or not the motor was running at that time. At the time he placed Angulo

back into the vehicle, the Respondent had not yet determined if Angulo was intoxicated. The Respondent conceded that at the time he placed Angulo back into the car, Angulo was neither under arrest for driving while intoxicated nor under arrest for any violation. The Respondent did not know whether or not Angulo was merely an aided case. The Respondent explained that a person in need of some sort of medical attention would be an aided case.

When the Respondent put Angulo in the car, the crowd was still popping in and out of a nearby residence. There would be two at once and then they would get dragged back into the nearby residence. The Respondent reiterated that he had to maintain crowd control without jeopardizing the safety of any of the officers that were present. The Respondent testified that he was not sure whether or not the motor was running when he put Angulo back into the vehicle. The Respondent did not know if Angulo was intoxicated at the time he placed him into the car. The Respondent further stated that he did not make a determination that Angulo was intoxicated. After placing Angulo back into the vehicle, Santiago arrived at the location. The Respondent had a limited conversation with Santiago. During the conversation, the Respondent asked Santiago to find out what was wrong with Angulo. Santiago went to the vehicle as the Respondent had requested.

The Respondent was unable to describe how Angulo was actually put into the vehicle. He acknowledged that the incident occurred approximately three-and-a-half years ago and he was not sure if Angulo was held by the arm when placed into the vehicle. The Respondent was unsure if either he or Golden had pointed Angulo in the direction of the auto. The Respondent was also unsure whether he placed Angulo in the auto himself or if Golden had placed Angulo in the auto. It was the Respondent's

recollection that Angulo, although not under arrest at that time, was in the back of his police vehicle. The Respondent was not in the vehicle with Angulo at that time. The mother of the two children was looking to make a scene by repeatedly saying, "Look at what they are doing to your father," and as a result the Respondent remained outside of the car with the family. The Respondent did not recall whether or not the children were screaming. He believed that the woman was Angulo's wife and explained that it was to the point where she had to be restrained by a younger female after Angulo was placed back into the vehicle. He was also concerned that a fight might ensue.

The Respondent instructed Santiago to find out the nature of the incident. Up to that point in time, the Respondent did not make a determination that Angulo was intoxicated. The Respondent admitted that, until this point in time, he neither smelled Angulo's breath nor communicated with him. The Respondent acknowledged that he was first concentrating on crowd control. He also testified that he did not see Angulo drive the vehicle, move the vehicle, or operate the vehicle in any other way than being slumped over the wheel of the car. The Respondent neither placed Angulo under arrest for driving while intoxicated, nor ordered that he be placed under arrest for driving while intoxicated. He stated that he had nothing to do with the arrest of Angulo for driving while intoxicated other than being present. The Respondent indicated that he did not tell the DA's office about any observations that were made relative to enabling the arrest for driving while intoxicated.

After Santiago arrested Angulo, Angulo was transported to the 45 Precinct for breath testing. The Respondent testified that he did not fill out any paperwork relative to the arrest. There came a point in time when the Respondent received four notifications to appear at the DA's office relative to this case. The first notification had a phone number for

the ADA Upon receiving the first notification, the Respondent called the ADA and left a message during which he provided the ADA with his cell phone number and requested that the ADA call him back if his appearance was absolutely necessary The Respondent explained that he always calls the ADA upon receipt of a notification because his duties as the platoon commander of the third platoon require that he supervises approximately 30 police officers on any given day The Respondent acknowledged that, in reality, he supervises just shy of 60 persons The Respondent supervises everybody working in the field during that platoon The Respondent agreed that it would be his responsibility as the platoon commander to respond to certain calls Checking to see whether or not his men were doing their assigned work would be another responsibility performed by the Respondent

The Respondent acknowledged that even to this day, as in the past, he always calls the ADA upon receipt of a notification The Respondents submitted that it is common practice for a lieutenant to respond to a notification with such actions The Respondent even went as far as to say that, "Generally speaking, 99 percent of the time, lieutenants that get notified do the same exact thing " The Respondent qualified his statement by testifying that the deputy inspector that conducted the Respondent's official Department interview made a note that this is common practice and happens all the time The Respondent indicated that he takes a great deal of pride in his work, and he would lose the platoon for a day if he goes to the DA's office and the case gets adjourned because the defense counsel was on a trial in another court The Respondent expressed that he is very protective over his men, and he feels responsible for them According to the Respondent, a sergeant would supervise the platoon while he was at the DA's office The Respondent indicated that the highest ranking officer who would be supervising the

platoon in the field while the Respondent was sitting in the DA's office waiting for a calendar call would be a sergeant

After drawing his attention back to the phone call he had made to the ADA, the Respondent indicated that he left a message recorded on voice mail every time he called Mutz. The Respondent further testified that a voice mail machine picked up the telephone each time he called Mutz. The Respondent responded to the first notification by leaving a message containing his cell phone number and a request to be called if his appearance was absolutely necessary. The Respondent did not receive a call on that day.

After receiving the second notification, the Respondent called again with no response. The Respondent testified that he 'did not go down.' The Respondent indicated that he left a message. The Respondent submitted that the phone number on the notification indicates in words or substances that if there is a problem, call this number. The Respondent indicated that, generally, the Department does not want a member of the service to report to court if a notification was received for a day on which the member was scheduled for a regular day off. The Respondent acknowledged that there is a provision on the notification to call the ADA if the notification is for a scheduled regular day off or if some other assignment or responsibility interferes with the appearance. The Respondent affirmed that he responded to the second notification by leaving a message identical to the first message. The second message contained the Respondent's phone number.

The Respondent acknowledged that he received a third notification. The Respondent did not recall the first time he got a phone call directing him to appear, but the Respondent did recall receiving a voice mail from the ADA on January 18, 2009, during which the ADA referenced an earlier conversation from a date which escaped the

Respondent's memory The Respondent did not know the reason why the case was adjourned on the day pursuant to the first notification He also did not know if the defense counsel was ready to go on that date, nor did he know if the People's case was ready

The Respondent reaffirmed that he left a phone number after receiving the second notification and never received a call back The Respondent was unaware as to why the case was adjourned on the day pursuant to the second notification The Respondent had no knowledge of who made the application to adjourn the case or the reason for the adjournment He stated that he responded to the third notification by leaving a message for the ADA in the same manner as he had for the first two notifications The Respondent reiterated that it is common practice to respond to notifications in this manner because he is in charge of a platoon, and it is common to appear at court only to have a case adjourned The Respondent called the ADA and did not have his message answered The Respondent did not know if the case was adjourned

A fourth notification was received by the Respondent and he responded by leaving a message as he had the three times previously The Respondent got a call back after the fourth notification The Respondent affirmed that he recorded that call back The Respondent indicated that Mutz called him back after the fourth notification During the conversation with Mutz, the Respondent asked when he needed to appear Mutz gave a date to the Respondent, and the Respondent appeared on that date He affirmed that Mutz finally responded to the telephone messages and Mutz specified a date on which the Respondent should appear The Respondent also affirmed that he responded on the date specified by Mutz

Upon appearing as directed, the Respondent initially met with Mutz. The Respondent claimed to have told Mutz exactly what transpired during the entire incident. He affirmed that he told Mutz exactly what happened with respect to the testimony he was providing in this court. At some point during their conversation, Mutz asked the Respondent to hold on one minute. At this time Mutz brought in another ADA, and the other ADA interviewed him regarding the incident. After the Respondent told the other ADA exactly what happened, Mutz and the other ADA told the Respondent that the case would be dismissed. The Respondent told Mutz and the other ADA that he was ready to testify. He acknowledged that, even to this day, he does not know why the case was dismissed. The Respondent told Mutz and the other ADA to enjoy their day when they informed him that the case was going to be dismissed. The Respondent did not tell them not to dismiss the case. The Respondent continued to state that he absolutely told Mutz and the other ADA what he saw, heard, and did on that day. Mutz and the other ADA then made the decision to dismiss the case.

The Respondent testified that he never gave any advice to Santiago as to what to do or say. The Respondent reiterated that when he put Angulo back into the vehicle, he did not know that the motor was running. He did not know that Angulo was intoxicated at that time. He also did not make a determination that Angulo was intoxicated at that time. The Respondent reaffirmed that he had called Santiago to investigate what was transpiring. The Respondent never saw the vehicle move and stated that he never ordered that Angulo be arrested for driving while intoxicated.

The Respondent agreed that he heard Santiago testify that Santiago observed Angulo put the vehicle into gear and attempt to move the vehicle which resulted in the vehicle moving. The Respondent also clarified that he himself did not personally observe

Angulo's actions as described in Santiago's testimony. The Respondent acknowledged that he heard Santiago say that Angulo told him in Spanish that he (Angulo) had been drinking. Angulo never told the Respondent that he had been drinking. The Respondent admitted that he was ashamed to say that he knows very little Spanish. The Respondent affirmed that he is now charged with placing a person that was suspected of driving while intoxicated back in a vehicle. He indicated that he neither suspected Angulo of being intoxicated, nor did he know what he had when he placed Angulo in the vehicle. The Respondent stated that at no time did he suspect Angulo of driving while intoxicated.

The Respondent affirmed that he responded to the four notifications that were received from the DA's office by leaving messages on the voice mail machine as well as conversations in person. When told to come down, the Respondent came down. The Respondent stated that he absolutely responded to the notifications. The Respondent acknowledged that he is being charged with not giving Mutz complete and accurate information regarding his actions despite the fact that, according to the Respondent, he told Mutz prior to the dismissal of the case that he had placed Angulo back in the car. The Respondent described the testimony he provided in this proceeding to be "verbatim" to the statements he made to Mutz. The Respondent clarified that Mutz told him that the case was dismissed after he was initially interviewed by Mutz and then interviewed by Mutz and the other ADA on the very same day that the case was dismissed. The Respondent indicated that he was never asked to come down and speak to anybody prior to that day.

The Respondent affirmed that he heard Santiago testify that the ADA told Santiago that there was enough to bring a complaint based upon Santiago's independent observations. The Respondent agreed that Santiago's information was the basis of the



complaint. The Respondent stated that his observations were never used as the basis of the complaint. According to the Respondent, the complaint was never based upon anything that he told or said to anybody.

The Respondent indicated that, at that time, there was no provision in place for a lieutenant's activity log to be checked. According to the Respondent, there was a Patrol Guide procedure created to direct that a captain inspect a lieutenant's activity log. The Respondent agreed that there was no provision for inspection of his activity logs by any superior officer prior to this particular case. The Respondent was also in agreement that this procedure was amended as a result of this case. The Respondent affirmed that the Patrol Guide does provide, however, that he keep an activity log. The Respondent admitted that he did not keep an activity log at that time. The Respondent acknowledged that there was no inspection of the activity logs that he was required to keep at that time. The Respondent acknowledged that subsequent to this case, the Department created a means of inspecting the activity logs that he was required to keep.

The Respondent affirmed that he is charged with failing to supervise in that he did not tell Santiago of his involvement with Angulo prior to Santiago's arrival at the scene. The Respondent did not tell Santiago about his involvement. Although the Respondent denied that he told Santiago that he wanted Angulo arrested, the Respondent did admit that he told Santiago to check Angulo out because the Respondent was not sure of what he had. According to the Respondent, Santiago did not arrest Angulo based upon what had transpired earlier, but rather upon Santiago's own observations of the odor of alcohol on Angulo's breath, Angulo's eyes, and hearing Angulo state that he was drinking. The Respondent once more denied that he suspected Angulo of being intoxicated when he put Angulo back into the car.

On cross examination, the Respondent agreed that he was required to make activity log entries according to the Patrol Guide at the time of the incident and also agreed that there was nothing in the Patrol Guide at that time that said that lieutenants did not need to maintain activity logs. The Respondent clarified that he was the first person to arrive at the scene of the incident and observed the vehicle running. He observed Angulo in the vehicle and acknowledged that he removed Angulo from the vehicle at some point prior to Santiago's arrival. The Respondent also affirmed that he placed Angulo back into his vehicle prior to Santiago's arrival at the scene. The Respondent could not recall after three-and-a-half years whether or not Angulo was placed on the bumper of the Respondent's vehicle, or anywhere other than those locations previously mentioned. The Respondent clarified that all of that activity happened prior to Santiago's arrival at the scene.

The Respondent was not sure if Angulo's vehicle was running at the time he placed him back into the vehicle. The Respondent agreed that the vehicle was running when he first saw Angulo slumped over the wheel. The Respondent did not remember telling Angulo to turn off the vehicle. He described his interaction with Angulo prior to Santiago's arrival as being minimal. The Respondent did not remember smelling any sort of alcohol on Angulo's breath. He denied observing any other indicators that would have led him to believe that Angulo was intoxicated.

The Respondent recalled being the subject of an official Department interview on January 29, 2008 which concerned this matter. After reviewing the transcript of his official Department interview (DX 6A), the Respondent agreed that he indicated that he was having trouble conducting an investigation because the family was interfering. The Respondent acknowledged that during the interview he commented that Angulo appeared

intoxicated. The Respondent agreed that the time frame referred to in his answer was prior to Santiago's arrival at the scene. Additionally, during his interview, when Weisse asked him about Angulo's condition, the substance of the Respondent's answers indicated that the Respondent acknowledged that Angulo appeared to be intoxicated.

During the official Department interview, the Respondent was specifically asked what type of tests he administered. The Respondent's response to the question during the interview was, "Oh, just random testing. I mean, I enforce many, many DWI arrest, and uh, we're just looking for bloodshot eyes, look for that effect, but unfortunately, due to the fact of the family's, um, 'chaoticness,' for lack of better terms, I was -- I wasn't able to fully conduct my investigation." Although not certain, the Respondent believed that it was at that point after the interaction that he took Angulo out of the vehicle and placed him into his police vehicle. The Respondent reaffirmed that essentially Angulo's family members were interfering with the investigation. The Respondent acknowledged that he did not arrest any of the family members for interfering, but noted that he probably would have had it not been Cinco de Mayo.

When the Respondent could not recall if the vehicle was running at that time, he once again referred to the transcript of his official Department interview, where he had indicated "it was actually quite chaotic, um, to do initial DWI testings. There were several individuals from his family inside the vehicle, and none of them, I guess, lived nearby. Some, the rest of his family, and I had 10 individuals yelling and screaming at me that were his family members." The Respondent confirmed that the transcript stated that there were individuals inside of the vehicle. The Respondent noted that, according to the transcript, he indicated that the vehicle was running. After refreshing his memory

with the transcript, the Respondent acknowledged that during his official Department interview, he answered that Angulo appeared to be intoxicated

The Respondent agreed that page five of Court Appearance Control System notifications (DX 1) was a notification for him to appear in court on September 28, 2007. The Respondent agreed that the appearance type indicated on the notification was "must appear trial," and added that it says that on every notification. The Respondent agreed that page 8 of DX 1 indicates that he was notified to appear in court on September 28, 2007. The Respondent also agreed that he did sign that notification and received this notification. The Respondent stated that he did the same as he always did when he received a notification. The Respondent conceded that he did not appear in court.

The Respondent agreed that page 16 of DX 1 was a notification for appearance on December 5, 2007, which stated "must appear trial," and was issued by Mutz. The Respondent agreed that page 19 of DX 1 indicated that he was, in fact, notified to appear in court on December 5, 2007. The Respondent also agreed that he signed for that notification and that he was notified. The Respondent reaffirmed that he did sign the notification to appear in court on December 5, 2007. The Respondent admitted that he did not appear in court on December 5, 2007.

The Respondent agreed that page 24 of DX 1 was a notification to appear in court on January 8, 2008, which was issued by Mutz. The Respondent affirmed that page 27 of DX1 indicated that he was notified to appear in court on January 8, 2008. The Respondent also affirmed that he both received and signed the notification. The Respondent believed that he did not appear, but believed that was when Mutz finally called him back. The Respondent explained that the subject of the conversation was that Mutz finally did need him, and that he was essential to the case. The Respondent

testified that Mutz made a mention that they spoke previously, but made no mention of prior notifications

The Respondent agreed that page 31 of DX 1 was a notification directing him to appear in court on January 15, 2008, which he had signed as well. The Respondent admitted that he did not appear in court on January 15, 2008. The Respondent did not recall the first date that he appeared in court, but vaguely remembered that it was sometime around January 21, 2008. After referring to page 39 of DX 1, the Respondent acknowledged that he first appeared at the DA's office on January 22, 2008. The Respondent did not recall receiving any notifications other than the ones reviewed during this testimony.

The Respondent denied any knowledge that the trial had already started when he appeared in court. The Respondent also did not know that witnesses had already testified. He did not recall when he first told Mutz that he had in fact taken Angulo out of the vehicle and placed Angulo into his police vehicle prior to Santiago's arrival at the scene. The Respondent explained that he spoke to Mutz several times before he actually appeared, and he did not recall the exact content of all of the conversations. The Respondent conceded that he may have mentioned it when he appeared at court on January 22, 2008. The Respondent admitted that he was not sure if he had told Mutz before January 22, 2008. He acknowledged that he heard the Mutz' testimony, which described a telephone conversation between the two of them. According to the Mutz, the Respondent stated that the way Santiago said it happened is how it happened. After acknowledging that he heard the Mutz' testimony during this proceeding, the Respondent denied making the statements that Mutz attributed to him.

According to the Respondent, it is uncommon to make an arrest for DWI without an actual breathalyzer test being performed. However, the Respondent did acknowledge that it is not uncommon to affect the arrest for DWI at the scene. The Respondent explained that although most members on patrol do not actually carry a breathalyzer test with them, it would ultimately depend on the member's particular assignment. The Respondent agreed that breathalyzer testing is generally performed at DWI testing centers.

The Respondent has been a member of the Department for 13 years, and during that time he has encountered so many intoxicated persons that it would be difficult to assign a number to quantify the total number of intoxicated persons with whom he had encounters. The Respondent confirmed that he was familiar with the indicia of intoxication. The Respondent indicated that, for the most part, he is capable of making a determination of the indicia of intoxication. The Respondent stated that there is no universal rule governing how an intoxicated person should exhibit, and explained that he had worked in Jackson Heights for many years and noticed that people exhibit intoxication in different ways. The Respondent agreed that he is familiar with various ways to tell whether a person is intoxicated or not. He affirmed that there would need to be a determination made with regards to the indicators exhibited by an individual suspected of being intoxicated in order to make an arrest for DWI. The Respondent estimated that he has made such a determination approximately 50 times. The Respondent explained that the length of time necessary to make such a determination would depend upon the individual. The Respondent testified that the determination is very circumstantial. According to the Respondent, people have different ways of

exhibiting intoxication and one person's intoxication may be immediately identified and another person's may take two to three minutes to be identified

The Respondent agreed that he made a decision to put Angulo back into the vehicle partly because he felt bad for the kids. The Respondent agreed that, generally, he would take into account the kids' perception of their father, along with how violent the individual was acting when deciding to take police action. The Respondent indicated that he had arrested individuals in the past when their children were present. He acknowledged that Santiago came to him after interacting with Angulo, but the Respondent did not recall what was said at that time. The Respondent speculated that, as a supervisor, he would discuss an arrest made by any person he called to the scene for assistance. The Respondent did not remember if he discussed the arrest with Santiago at that time. He admitted that he did not recall whether or not Angulo's vehicle was running at the time he put Angulo back into Angulo's vehicle after removing him from the police vehicle.

Although the Respondent did not recall ever being personally listed as the arresting officer on an On Line Booking Sheet pursuant to an arrest for DWI, he did admit that he has been involved in DWI arrests. The Respondent also indicated that he was involved in DWI arrests where the car was not moving at the time it was first observed. The Respondent affirmed that he intended to conduct an investigation when he first approached the vehicle and saw that someone was slumped in the vehicle and the vehicle was running. The Respondent also affirmed that he intended to ascertain if the person was intoxicated.

The Respondent stated that he did not know if the ADA ever received the messages which he had left on the voice mail machine. He acknowledged that when he

called the number on the notification, it was answered by a recorded message, and he, in turn, left a recorded message himself

### FINDINGS AND ANALYSIS

Under Specification No. 1, the Respondent is charged with failing to provide the arresting officer, Police Officer Oswaldo Santiago, with complete information regarding the Respondent's involvement with Job Angulo prior to Santiago's arrival at the scene. Specification No. 2 charges the Respondent with creating a dangerous situation, in that he placed Angulo a person he suspected of being intoxicated, into the driver's seat of Angulo's running motor vehicle. In Specification No. 3, the Respondent is charged with failing to comply with a notification issued by the Bronx County District Attorney's Office. And under Specification No. 4, the Respondent is charged with failing to provide Assistant District Attorney Larry Mutz, of the Bronx County District Attorney's Office, with complete and accurate information regarding the actions he took during the arrest of Angulo on May 6, 2007.

It is not in dispute that Angulo was arrested for DWI in that he was observed by Santiago to have an odor of alcohol, bloodshot eyes, slurred speech, unsteady or swaying while standing and a breathalyzer test reading of 13.

It is also not in dispute that the Respondent had the initial contact with Angulo after he observed him in his car slumped over the steering wheel. The Respondent stated that he could not communicate with Angulo because Angulo only spoke Spanish. The Respondent sent for Santiago to act as a translator. In addition, the Respondent removed Angulo from his car and placed him in a police vehicle with the assistance of the Respondent's operator, Police Officer Golden. At that point, the Respondent claimed



that he had not made a determination that Angulo was intoxicated. Angulo's family had also gathered and was complaining of the treatment that Angulo was receiving, with the mother of his two children saying to them, "Look what they are doing to your father." According to the Respondent, people in the area were celebrating Cinco de Mayo and family members appeared to be intoxicated. The Respondent claimed that he did not know what he had at this point regarding Angulo and, because he was concerned with controlling the crowd and sympathizing with his family, he decided to put Angulo back into his vehicle. The Respondent could not recall if the vehicle was running and still asserted that he did not know if Angulo was intoxicated.

When Santiago arrived at the scene he saw the Respondent standing a few feet from Angulo's vehicle. Santiago was directed by the Respondent to find out what was wrong with Angulo. When Santiago approached Angulo's vehicle, he noticed that the key was in the ignition, the engine was running and the instrument panel was lit. After Angulo attempted to move the vehicle, Santiago ordered him out of the vehicle and very quickly noticed that he had a strong odor of alcohol emanating from his breath along with blood shot watery eyes.

When Angulo exited the vehicle Santiago believed he was told by the Respondent to place him under arrest for "intoxication" and to bring him to the 45 Precinct station house which he did.

The Respondent did not tell Santiago of his interaction with Angulo prior to Santiago arriving at the scene. This Court finds that not divulging to Santiago what occurred prior to his arrival was a serious lapse of sound judgment on the part of the Respondent, a field supervisor at the time, because what he did observing Angulo slumped over the wheel, removing him from the vehicle placing him in the police

vehicle and then back in Angulo's car, was all part of the DWI case against Angulo. While it is true that Santiago's investigation and police action was enough to bring charges against Angulo, the initial contact with Angulo was still evidence in the case which Santiago should have been made aware of. When Santiago reported to the DA's office to give information for the drafting of a complaint he should have been able to tell the ADA that he was "informed by" the Respondent of what occurred prior to his arrival at the scene. He was not able to do this because the Respondent never told him of what occurred.

In addition, the Respondent claimed that he did not know if Angulo was intoxicated when he placed him back in his vehicle or if the engine was running. This Court finds that he did know that he was intoxicated as evidenced by his statement during his official Department interview where he acknowledged to investigators that Angulo appeared to be intoxicated. It is also apparent to this Court that he was aware of Angulo's intoxicated condition because he took further police action by calling in Santiago who, after a very short period of time with Angulo, found that he clearly appeared to be under the influence of alcohol. The Respondent spent much more time with Angulo than Santiago did -- he observed him in his vehicle, attempted to speak to him, was in close proximity to him when bringing him to the police vehicle and again when he brought him back to his own vehicle.

While this Court is aware that the Respondent was also focused on Angulo's family and friends who may have been unruly at the scene, that situation cannot be used as an excuse for him returning Angulo to his car with the keys in the ignition and the engine likely running. Even though the Respondent remained at the scene, he created a dangerous situation with the intoxicated Angulo behind the wheel of a vehicle that he

could easily lose control of and injure someone

This Court also cannot further excuse the Respondent for not informing Santiago, either at the scene or at some point prior to him going to the DA's office, about the additional facts that he witnessed in that case. It was not for him to decide what facts of the case were important and what were not -- that decision was for the DA to decide.

Accordingly, the Respondent is found Guilty of Specification Nos. 1 and 2

After a complaint was drafted based on the facts given by Santiago and with no input from the Respondent, the case was eventually assigned to Mutz. Mutz notified the Respondent many times to appear in his office so that he could question him about the case. The evidence shows that the Respondent received four of those notifications (DX 1). The notifications to the Respondent that were admitted onto evidence were "must appear," which means that the Respondent was required to appear in Mutz's office for trial. The Respondent did not appear as directed by the notifications. Instead, he called the number on the notification and left a message containing his cell phone number and a request to be called if his appearance was absolutely necessary. During those calls, he did not speak directly to Mutz and therefore never apprised him of his initial participation in the case involving Angulo. He also did not know if Mutz ever received his messages and did not make any further attempt to contact him personally.

The reason the Respondent gave for not appearing as directed was that he was in charge of a platoon of 30 officers and did not want to leave his people and appear in court only to have the case adjourned. The Respondent, however, openly admitted that there was a sergeant that could have filled in for him in his absence. More importantly, what the Respondent fails to understand is that he had the responsibility to meet with the ADA

and speak to him about the case and inform him of his participation -- however minor he may have felt that participation was. Even when he did speak to Mutz the first time on the telephone, he did not remember the case (he never made a memo book entry of the facts -- See Specification No. 5) and still insisted that there was nothing more to add than what Santiago already told the ADA. In this Court's opinion he was clearly wrong in his assessment of his role in the case, especially since all those family members that were present at the scene became witnesses at trial to his participation. Their testimony of the Respondent's actions placed Santiago's version in doubt and the Respondent's role could not be explained to the judge or jury because the Respondent, at that point, had not informed Santiago of what he knew and avoided all the notifications from Mutz -- keeping him in the dark about what he did at the scene.

Based on the foregoing the Respondent is found Guilty of Specification Nos. 3 and 4

The Respondent is charged with failing to maintain activity logs (PD 112-145) between February 27, 2007 and May 20, 2007, as required.

The Respondent admitted to not keeping an activity log as he was required to do. He testified that, at the time of the incident, there were no inspections of his activity logs by any superior officer. This Court is aware, however, that the Respondent is a superior officer and should not have needed for his activity logs to be inspected in order for him to make entries of important matters like the DWI case that is the subject of this case against him.

Accordingly, the Respondent is found Guilty of Specification No. 5

PENALTY

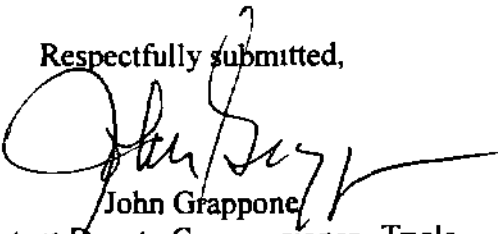
In order to determine an appropriate penalty, the Respondent's service record was examined See Matter of Pell v Board of Education, 34 N Y 2d 222, 240 (1974) The Respondent was appointed to the Department on February 28, 1994 Information from his personnel folder that was considered in making this penalty recommendation is contained in the attached confidential memorandum

The Respondent has been found Guilty of failing to properly supervise an arrest, creating a dangerous situation by placing an intoxicated person in the driver's seat of a running motor vehicle, failing to comply with the notifications requested by the Bronx District Attorney's Office, failing to provide ADA Larry Mutz with complete and accurate information regarding his actions during an arrest and failing to maintain his activity log during a three-month period

The Department has recommended that as part of his penalty the Respondent be placed on one-year dismissal probation This Court finds that while his misconduct is inexcusable, when combined with his 13-year and otherwise unblemished service record, that added penalty is not warranted

Accordingly, it is recommended that the Respondent forfeit a penalty of 10 days to be served on suspension and an additional forfeiture of 30 vacation days for a total forfeiture of 40 penalty days

**APPROVED**  
SEP 20 2011  
RAYMOND W KELLY  
POLICE COMMISSIONER

Respectfully submitted,  
  
John Grappone  
Assistant Deputy Commissioner--Trials

POLICE DEPARTMENT  
CITY OF NEW YORK

From Assistant Deputy Commissioner – Trials  
To Police Commissioner  
Subject CONFIDENTIAL MEMORANDUM  
LIEUTENANT JASON SAVINO  
TAX REGISTRY NO 920811  
DISCIPLINARY CASE NO 84640/08

On the last three performance evaluations contained in his personnel file, the Respondent received ratings of 5 0 “Highly Competent,” 4 5 “Highly Competent,” and 4 5 “Highly Competent”

The Respondent has been awarded five Excellent Police Duty medals and five Meritorious Police Duty medals and two Commendations

The Respondent has no prior disciplinary record

For your consideration

  
John Grappone  
Assistant Deputy Commissioner-Trials